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09/941,386	08/28/2001	James C. Ori	705558US1	5998

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EXAMINER

GUTMAN, HILARY L

ART UNIT

PAPER NUMBER

3612

DATE MAILED: 08/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. 09/941,386	Applicant(s) Ori et al.
Examiner Hilary Gutman	Art Unit 3612



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on \_\_\_\_\_.

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-16 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-16 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on Aug 28, 2001 is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892)      4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4      6)  Other: \_\_\_\_\_

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## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "adhesive" of claim 10, "fasteners" of claim 11, and "external depression" of claim 12 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 30, 32, 34, (Figures 3-4), and 64 (Figure 7).

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "54" has been used to designate both horizontal ribs (Figure 6) and ribs (Figure 7).

4. The drawings are objected to because in Figure 8 the graph states sill right "front" which is unclear since the collision is stated in the specification to be a rear-on collision. In addition, the terms "baseline" and "aluminum extrusion" should perhaps be more specific to the fact that the "baseline" does not include the structural member and the "aluminum extrusion" does include the structural member.

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✓ 5. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

*Specification*

✓ 6. The disclosure is objected to because of the following informalities:

On page 5, [0021], line 3, "rail 16 and 18" should be "rails 16 and 18". Also on line 4, "lower rail 24" should be "upper rail 24". On line 6, "portion" should be "section". In [0022], line 6, a comma should be inserted after "axis".

On page 6, [0023], line 5, "point" should be inserted before "A". On line 6, "upper frame rail 16" should be "lower frame rail 16". In [0024], line 1, "upper rails" should perhaps be "lower rails". On line 4, "upper frame rails" should perhaps be "lower frame rails". Also on line 4, "prevent" should be "prevents". In [0025], line 1, and in other instances throughout the specification reference number 14 is used to describe a "structural member" but previously in the specification reference number "14" indicated a "lower frame rail" and perhaps only one term should be used for clarity or both terms should be defined for use with this reference number.

Also in [0025], reference numbers 30, 32, and 34 are defined but not shown in the figures.

On page 7, [0028], line 2, "tubular body 30" was previously defined as "tubular body main portion 30" and should be referred to as such in this instance and throughout the specification for clarity. Appropriate correction is required.

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7. The abstract of the disclosure is objected to because: on line 1, "vehicle, that" should be "vehicle". On line 3, "having" should be "has". Correction is required. See MPEP § 608.01(b).

### *Claim Objections*

8. Claims 1 and 15 are objected to because of the following informalities:

~~-In-claim-1-on-line-7, the semicolon after "body" should be a period.~~

~~✓ In claim 15, line 2, a period should be inserted after "vertically".~~

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 2-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

~~✓ Claims 2-16 all recite the limitation "The motor vehicle" in line 1. There is insufficient antecedent basis for this limitation in the claims.~~

~~✓ Claim 2 recites the limitation "said tubular main frame" in line 2. There is insufficient antecedent basis for this limitation in the claim.~~

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 For claims 6 and 7, it should be noted that the patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process (MPEP 2113).

- ✓ Claim 8 recites the limitation "said tubular main frame" in line 2. There is insufficient antecedent basis for this limitation in the claim.
- ✓ Claim 13 recites the limitation "the length" in line 1. There is insufficient antecedent basis for this limitation in the claim.

#### *Claim Rejections - 35 USC § 102*

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

*rejection*  
*should stay*  
*the same*

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.  
→ 2-3, 10-11, ██████████

12. Claims 1-4, 6-8, 10-11, and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Vlahovic.

Vlahovic discloses a motor vehicle frame assembly having a tubular frame member 2 for absorbing energy in the event of a collision and a structural member 1 disposed in the tubular frame member, the structural member comprising: a generally tubular body having an outer perimeter complimentary to an inner perimeter of the tubular frame member, the tubular body

*Claims 4-8 have been changed  
Substantially* ←  
13-16 →  
by changing dependency

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being disposed within the tubular frame member to locally increase the movement of inertial and at least one rib (Figure 1) disposed in the tubular body.

In addition, the frame assembly includes a joint and the structural member is located in a tubular main frame at the joint. The joint is defined by the tubular frame member as a second frame member. The structural member is constructed of aluminum. The structural member is fixedly attached to the tubular main frame by gluing (adhesive), riveting, screwing (fasteners), welding, or the like (Column 3, lines 64-66). The ribs apparently extend the length of the tubular body. The ribs are orientated generally horizontally.

For claims 6 and 7, it should be noted that the patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process (MPEP 2113).

13. Claims 1 and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Norlin.

Norlin discloses a motor vehicle frame assembly having a tubular frame member 13 for absorbing energy in the event of a collision and a structural member 12 disposed in the tubular frame member, the structural member comprising: a generally tubular body having an outer perimeter complimentary to an inner perimeter of the tubular frame member, the tubular body being disposed within the tubular frame member to locally increase the movement of inertial and at least one rib disposed in the tubular body.

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In addition, the ribs extend the length of the tubular body. The ribs are orientated generally horizontally. The ribs are orientated generally vertically. The ribs are oriented in an intersecting pattern.

14. Claims 1, 4-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Horiuchi et al.

Horiuchi et al. disclose a motor vehicle frame assembly having a tubular frame member 1 for absorbing energy in the event of a collision and a structural member 16 disposed in the tubular frame member, the structural member comprising: a generally tubular body having an outer perimeter complimentary to an inner perimeter of the tubular frame member (see abstract), the tubular body being disposed within the tubular frame member to locally increase the movement of inertial and at least one rib 16a disposed in the tubular body.

In addition, the structural member 16 is constructed of light alloy (such as aluminum) or steel for a higher reinforced structural member.

#### *Claim Rejections - 35 USC § 103*

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

*rejection should  
not change*

16. Claims 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vlahovic in view of the well known prior art.

Vlahovic discloses the structural member being fixedly attached to the tubular main frame by gluing (adhesive), riveting, screwing (fasteners), welding, or the like (Column 3, lines 64-66).

Vlahovic lacks the structural member being fixedly attached to the tubular main frame by an interference fit or by external depressions.

However, leaves open the fact that other methods of attaching the structural member to the tubular main frame are possible. Furthermore, interference fits and external depressions of the type claimed are well known in the prior art (see Rich et al. 5,219,197 and Townsend 6,010,182) for use in attaching vehicle components together and it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used either an interference fit or external depressions for attaching the structural member of Vlahovic as obvious expedients.

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*Conclusion*

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references show other tubular frame members and frame assemblies similar to that of the current invention.
18. Any inquiry concerning this communication from the examiner should be directed to Hilary L. Gutman whose telephone number is (703) 305-0496.
19. **Any response to this action should be mailed to:**

Assistant Commissioner for Patents  
Washington, D.C. 20231

**or faxed to:**

(703) 305-3597, (for formal communications intended for entry)

**or:**

(703) 305-0285, (for informal or draft communications, please clearly label  
“PROPOSED” or “DRAFT”).

hlg

August 22, 2002

  
D. GLENN DAYOAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600